

### REMARKS

Claims 1-7 and 9-27 were previously pending in this application. Claims 1, 13, 16 and 18 have been amended herein. New claims 18-55 have been added. As a result, claims 1-7 and 9-55 are pending for examination, with claims 1, 13, 16, 18 and 41 being independent claims.

#### Rejections Under 35 U.S.C. §102

The Office Action rejected claims 1-3, 5-7, 9-12, 18-20 and 22-27 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 1,423,590 to Zimmerman (hereinafter Zimmerman).

#### Claims 1-3, 5-7 and 9-12

The Office Action rejected claim 1 alleging that Zimmerman discloses a fastener comprising a housing 2 sized and adapted to mate with a fastening element 4; and a latch 10 positioned relative to the housing to retain the fastening elements within the housing.

Zimmerman discloses a fastener including a tongue 10 that retains a complementary member 4 by pressing against the underside of the complementary member 4 (see Fig. 3 of Zimmerman). Claim 1 has been amended to recite *inter alia* "a depressable latch positioned ... to retain [a] fastening element by interference with a lateral surface of the fastening element." Zimmerman does not disclose or suggest a latch that interferes with a lateral surface of a fastening element. Therefore, claim 1 as-amended patentably distinguishes over Zimmerman.

Claims 2, 3, 5-7 and 9-12 depend from claim 1 and patentably distinguish over Zimmerman for at least the same reasons as claim 1.

Accordingly, withdrawal of the rejection of claims 1, 2, 3, 5-7 and 9-12 is respectfully requested.

#### Claims 18-20 and 22-27

The Office Action rejected claim 18 alleging that Zimmerman discloses a fastener comprising: a housing 2 sized and adapted to mate with a fastening element; and a latch 10 positioned relative to the housing to retain the fastening element within the housing, wherein the

latch comprises a protrusion having a portion corresponding to the shape of the fastening element.

Claim 18 has been amended to recite *inter alia* “[a] latch [comprising] a first portion to which pressure is applied when the fastening element is moved into engagement with the fastener and a second portion upon which the fastening element rests when in an engaged position, at least a part of the first portion being disposed at a distance from the surface which is greater than the distance from the second portion to the surface.” While Zimmerman discloses a fastener including a tongue 10 having a first portion to which pressure is applied when the fastening element is moved into engagement with the fastener and a second portion which applies pressure to the fastening element when in an engaged position, the entirety of the first portion is disposed at a distance from a surface (see left-most vertical line of Fig. 3 of Zimmerman) which is less than the distance from the second portion to the surface (see Fig. 3 of Zimmerman).

Zimmerman doesn’t teach or suggest a latch comprising a first portion to which pressure is applied when the fastening element is moved into engagement with the fastener and a second portion upon which the fastening element rests when in an engaged position, at least a part of the first portion being disposed at a distance from the surface which is greater than the distance from the second portion to the surface. Therefore, claim 18 as-amended patentably distinguishes over Zimmerman.

Claims 19-20 and 22-27 depend from claim 18 and patentably distinguish over Zimmerman for at least the same reasons as claim 18.

Accordingly, withdrawal of the rejection of claims 18-20 and 22-27 is respectfully requested.

#### Rejections Under 35 U.S.C. §103

##### Claims 4 and 21

The Office Action rejected claims 4 and 21 under 35 U.S.C. §103(a) as being unpatentable over Zimmerman in view of U.S. Patent No. 6,321,419 to Fildan (hereinafter Fildan). The Office Action alleges that Zimmerman discloses all of the limitations of claim 4 except for a sheet of material comprising a thermoplastic and a flange, the flange and the sheet being heat sealed together. The Office Action further alleges that Fildan discloses a fastener

assembly 10 with a sheet of material comprising a thermoplastic that is heat sealed to the flange. The Office Action concludes that it would have been obvious to modify Zimmerman using a thermoplastic assembly wherein the components are heat sealed together in order to provide an inflatable beach item.

The Applicant traverses this rejection. The combination of Zimmerman and Fildan is improper. Zimmerman describes a fastener for use with a garment. Fildan describes a fastener for a brassiere. Neither Zimmerman nor Fildan teaches the use of a fastener with an inflatable beach item. Accordingly, the Office Action's stated motivation for combination (i.e., to provide an inflatable beach item) is without support in Zimmerman or Fildan, and is based on improper hindsight in view of the application disclosure, and the rejection should be removed.

Even assuming, *arguendo*, that the combination of Zimmerman and Fildan is proper, claims 4 and 21 patentably distinguish over the combination of Zimmerman and Fildan for the following reasons.

Firstly, the Office Action's characterization of the Fildan is incorrect. Contrary to the Office Action's assertion that Fildan discloses a fastener assembly 10 with a sheet of material comprising a thermoplastic that is heat sealed to the flange, Fildan merely discloses that a female fastener half 10 is injection molded on a woven tape 11 which is covered on one side by a strip. The strip is folded over a tape and welded with a pair of longitudinal weld seams to the tape. (Col. 4, lines 61-67.)

Accordingly, the strip is welded to a tape, not a flange, as is recited in claims 4 and 21. Therefore, even if Zimmerman and Fildan were combined in the manner suggested by the Office Action, the combination would not comprise "a flange and sheet of material [that] are heat sealed together," as recited in claim 4. Nor would the combination provide a fastener comprising "[a] flange and the sheet of material ... configured to be heat sealed together," as recited in claim 21.

Secondly, Fildan does not cure the infirmities of the rejections of independent claims 1 and 18, from which claims 4 and 21 depend, thus claims 4 and 21 are patentable for the reasons set forth above with regard to claims 1 and 18, respectively.

Accordingly, withdrawal of the rejection of claims 4 and 21 is respectfully requested.

Claims 13-17

The Office Action rejected claims 13-17 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,855,033 to Frissen (hereinafter Frissen) in view of Zimmerman. The Office Action alleges that Zimmerman discloses a fastener assembly comprising a fastening element 29, a housing 31 connected to a bladder (23, 25) and sized to mate with the fastening element. The Office Action acknowledges that Frissen failed to disclose a latch positioned relative to a housing to retain the fastening element in the housing. The Office Action further alleges that Zimmerman discloses a fastener assembly having a latch positioned relative to a housing 9 to retain a fastening element 4. The Office Action concludes that it would have been obvious to one having ordinary skill in the art at the time of the invention to employ a fastening assembly having a latch positioned relative to the housing in order to prevent the components from becoming unintentionally disconnected.

The Applicant traverses this rejection. The combination of Frissen and Zimmerman is improper. Frissen discloses the use of fasteners on an inflatable beach device. However, neither Frissen nor Zimmerman disclose or suggest that a latched faster, as disclosed in Zimmerman, should be combined with the inflatable beach device of Frissen. The Office Action has engaged in impermissible hindsight in view of the application disclosure. Furthermore, Zimmerman discloses a fastener that is stitched to an object using holes 14 for attachment. Accordingly, the asserted combination would not work as claimed, because attachment of Zimmerman's fastener by stitching is inappropriate for use with an inflatable bladder to avoid leakage of the contained air. Accordingly, the combination of Frissen and Zimmerman is improper and the rejection of claim 13 should be removed.

Furthermore, the Office Action's characterization of the Frissen is incorrect. Frissen is directed to an inflatable beach item which allows a beachgoer to feel the sand beneath him. (Col. 1, lines 32-34.) The beach item has a thin-walled flexible plane made up of a central part 2 and a peripheral part 25. Only the peripheral part forms an inflatable bladder, so that the peripheral part is raised relative to the central part to protect the beachgoer and items placed between the peripheral parts from blowing sand. (Col. 1, lines 53-55.) Accordingly, as can be seen in Fig. 2 of Frissen, contrary to the assertions in the Office Action, the fastener 29 is not connected to an inflatable bladder, such that upon combination with Zimmerman "a housing ... [is] connected to the bladder," as recited in claim 13. Instead, fastener 29 is connected to an uninflatable inner

portion of the beach item. Therefore, even assuming *arguendo* that the combination of Frissen and Zimmerman is proper, which it is not, the claimed invention patentably distinguishes over the combination. The asserted combination would not disclose a housing connected to a bladder and a latch positioned relative to the housing to retain a fastening element. Therefore, amended claim 13 patentably distinguishes over Frissen and Zimmerman.

Claims 14 and 15 depend from claim 13 and patentably distinguish over Frissen and Zimmerman for at least the same reasons as claim 13.

Accordingly, withdrawal of the rejection of claims 13-15 is respectfully requested.

#### Claim 16-17

As stated above, the combination of Frissen and Zimmerman is improper. Furthermore, contrary to the assertions in the Office Action, the fastener 29 of Frissen is not connected to an inflatable bladder and therefore neither Frissen nor Zimmerman nor the asserted combination disclose or suggest "a housing ... connected to the bladder," as recited in claim 16 as amended. Therefore, even assuming that the combination of Frissen and Zimmerman is proper, which it is not, claim 16 patentably distinguishes over the asserted combination of Frissen and Zimmerman.

Claim 17 depend from claim 16 and patentably distinguish over Frissen and Zimmerman for at least the same reasons as claim 16.

Accordingly, withdrawal of the rejection of claims 16 and 17 is respectfully requested.

**CONCLUSION**

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50/2762.

Respectfully submitted,  
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